

W. 03512A-07-0362



0000092051

OPEN MEETING AGENDA ITEM
ARIZONA CORPORATION COMMISS

ORIGINAL

UTILITY COMPLAINT FORM

Investigator: Richard Martinez

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2008 - 73834

Date: 12/10/2008

Complaint Description: 08A Rate Case Items - Opposed
N/A Not Applicable

First:

Last:

Complaint By: **Bernice E.**

Winandy

Account Name: Bernice E. Winandy

Home: (000) 000-0000

Street: [REDACTED]

Work: (000) 000-0000

City: Pine

CBR: [REDACTED]

State: AZ Zip: 85544

is: E-Mail

Arizona Corporation Commission
DOCKETED

Utility Company. **Pine Water Co., Inc.**

DEC 22 2008

Division: Strawberry View 1

Contact Name: [REDACTED]

DOCKETED BY

Contact Phone: [REDACTED]

Nature of Complaint:

Docket #W-03512A-07-0362

At the last Arizona Corporation Commission (ACC) hearing on the above matter some accusations were made concerning the conduct of previous Pine Strawberry Water Improvement District (PSWID) Board members. I would normally try to stay out of such a discussion since it has little to do with the above referenced matter. However, since one of the commissioners expressed concern about the behavior of past PSWID Board members, I offer the following as a means of presenting the "other side" of the issue. I hope that the commissioner will have an open mind and consider what is contained in this e-mail.

At its most basic, a conflict of interest is when someone is serving two masters and an action taken for the benefit of one master is detrimental to the interests of the other master. Mr. James Richey and Mr. Breninger have been accused of having had a conflict of interest.

For Mr. Richey the claim is based upon his purchase of water storage tanks and the land under them from Pine Water Co. For Mr. Breninger, the claim is based upon his being hired by Pine Water Co. to be project manager for the K2 Well after he had left the PSWID Board.

Mr. Richey purchased the water tanks prior to being a PSWID Board member. The three tanks had been declared hazardous and had been condemned by Gila County. Mr. Richey purchased them for \$1,000. Gila County later bought the three tanks. Two were scrapped and the third was refurbished and moved next to the landfill to hold water for fighting fires.

Mr. Breninger was not a PSWID Board member when the K2 Well project was negotiated and approved. There was no discussion of employment with Brooke Utilities while Mr. Breninger was on the PSWID Board.

In neither of these cases was there a conflict of interest because neither was serving two masters. Mr. Richey's purchase of the water tanks was over before the agreement was negotiated and approved unanimously by PSWID. The K2 Well agreement was out in the open for all the PSWID Board members and their legal

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representatives to see. Mr. Richey had nothing to gain from the K2 Well agreement.

For Mr. Breninger there was no discussion of employment prior to leaving PSWID so there was never the situation of two masters.

In addition to the above discussed individuals three other very hard working former members of the PSWID Board have been subjected to the cruelest type of character assassination by some members of the Pine/Strawberry community. These former PSWID Board members wanted to find an inexpensive and quick solution to the area's water problems and so they commenced to have a dialogue with the water company owner. An agreement was reached and the ACC was asked to approve an encumbrance. Instead of sticking to the matter at hand, reaching a quick decision, the matter was delayed. As a result the citizens in Pine/Strawberry will probably pick up a very large legal tab, will probably have increased water rates, and when sufficient water will come to the area remains an unanswered question.

Bernice E. Winandy

[REDACTED]
Pine, Arizona [REDACTED]
[REDACTED]

End of Complaint

Utilities' Response:

na

End of Response

Investigator's Comments and Disposition:

Replied with the following email:

RE: Pine Water Company, Inc.

Dear Ms. Bernice E. Winandy:

Your email received regarding the Pine Water Company, Inc. application sent to the Arizona Corporation Commission ("Commission") office will be placed on file with the Docket Control Center to be made part of the record. The Commission will take your comments into consideration before a decision is rendered in the Pine Water Company, Inc. case.

The concerns raised in letters received from customers will assist the Commission in the investigation and review of the rate application. The Commission's independent analysis of the utility and its request attempts to balance the interest of the utility and its customers. Commission Staff is very sensitive to the burden that high utility rates can place on the consumer, and though constitutionally required to allow a fair return to the utility, does everything within its authority to protect the consumer.

Commission staff appreciates your comments and the interest taken on the proposed case. If you should have any questions relating to this issue, please call me toll free at (800) 535-0148 or directly at 520-628-6556.

Thank you,

Richard Martinez
Public Utilities Consumer Analyst II
Arizona Corporation Commission
Utilities Division
[REDACTED]

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E-mailed to Guadalupe Ortiz @ ACC's Phoenix Office to have this OPINION docketed towards Pine Water Company, Inc. Docket No. W03512A-07-0362. FILE CLOSED.

End of Comments

Date Completed: 12/17/2008

Opinion No. 2008 - 73834

W.03512A-07-0362

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Investigator: Guadalupe Ortiz

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2008 - 73655

Date: 12/4/2008

Complaint Description: 08A Rate Case Items - Opposed
N/A Not Applicable

First:

Last:

Complaint By:

Bernice E.

Winandy

Account Name:

Bernice E. Winandy

Home: [REDACTED]

Street:

[REDACTED]

Work:

City:

Pine

CBR:

State:

AZ

Zip: [REDACTED]

is:

Utility Company:

Pine Water Co., Inc.

Division:

Strawberry View 1

Contact Name:

[REDACTED]

Contact Phone: [REDACTED]

Nature of Complaint:

Email Received - Opinion Opposed:

RE: Docket No.'s W-03512A-07-0362

From: Bernice Winandy [mailto:[REDACTED]]

Sent: Tuesday, December 02, 2008 5:08 AM

To: Utilities Div - Mailbox; Pierce-Web; Hatch-WebEmail; Mundell-Web; Mayes-WebEmail; Gleason-WebEmail

Subject: W-03512A-07-0362

Chairman Gleason has asked whether Pine Strawberry Water Improvement District (PSWID) has the authority to purchase and run a water system. In my opinion PSWID does not have the authority to purchase the water companies and become a water supplier for the following reasons:

1. I personally know people who were involved in obtaining signatures on the petition to form PSWID. These acquaintances have told me that PSWID was formed to look for solutions to the area's water problems and not for the purpose of purchasing Pine Water Company and Strawberry Water Company (the Water Companies). In fact, I believe that many of the signatures on the petition were obtained only after the person presenting the petition assured the signer that PSWID was not being formed for the purpose of purchasing the Water Companies.
2. I was at the Gila County Board of Supervisors meeting when the PSWID was formed. My recollection is that Ron Christianson, Gila County District One Supervisor at the time, assured the audience that PSWID was not being formed for the purpose of purchasing the Water Companies and becoming a water supplier.
3. Domestic water districts are districts that are formed with the purpose of becoming a water supplier. The other water districts in the Pine/Strawberry area which are water suppliers were all formed with the word "domestic" incorporated in their name. The word "domestic" is not included in PSWID's name nor was it on any

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of the formation documents.

4. A memo dated July 12, 2004 from the Gila Board of Supervisors to a citizens group states in part, "The PSWID is currently a Water Improvement District as defined in the Arizona Revised Statutes. However, it is subject to becoming a "domestic" water improvement district if property owner's approval and Board of Supervisors approval is obtained as required under A.R.S. 48.1018." The residents of Pine/Strawberry have not been asked to approve any conversion to a domestic water district and, as far as I know, the Gila County Board of Supervisors has not approved any conversion.

5. PSWID has existed in the Pine/Strawberry area for about 12 years with the residents of the area acting under the belief that PSWID was a district without the power to purchase the Water Companies and become a water supplier. In fact, there has been a running conversation in the area asking the question, "If PSWID does discover water, what does PSWID do with it? Does PSWID become a water wholesaler? How does it become a water wholesaler? After the discovery of water, is it feasible for PSWID to purchase the Water Companies? After the discovery of water should PSWID become a domestic water district?" It is only after the March, 2008 recall election that the PSWID Board suddenly declared out of the clear blue that PSWID is a domestic water district with the power to purchase the Water Companies.

Clearly, PSWID was not formed as a domestic water improvement district, it has not existed, acted or been thought of as a domestic water district, nor has it been converted to one in accordance with Arizona Revised Statutes. Therefore, the answer to Chairman Gleason's question regarding whether PSWID has the authority to purchase the Water Companies and become a water supplier is "No." If PSWID has always been a domestic water district a great many people in the Pine/Strawberry area have been have been consistently duped since the inception of PSWID some 12 years ago.

I request that the Arizona Corporation (ACC) Commissioners bear with me as a change the subject of this e-mail and express my view concerning the handling of the above referenced matter.

The question initially brought before the ACC was whether Pine Water Company could afford to take on debt. Instead of coming to a legally supported decision on this matter in a timely fashion, the ACC chose to succumb to a loud group. The lack of ACC action has denied the residents of Pine/Strawberry the right to pursue a quick and economical solution to their water problems and has allowed attorneys' fees to reach astronomical figures. Sadly, the individual Pine/Strawberry resident gets to pick up the tab for the attorneys' fees regardless of who comes out on top in this matter and whether or not the water problem is solved. Ironically, the group that the ACC has gone out of its way to support, tells attendees at its meetings that the public should not depend on the ACC to look out for the best interests of the public. One can only wonder how much the unnecessary prolonging of a simple case has cost the entire State of Arizona in these difficult financial times.

Finally, I was quite amazed at the behavior of one of the Commissioners at the last hearing in this matter as he made derogatory remarks about attorneys involved in the case and stated that he did not want to be hung in effigy by the residents of Pine/Strawberry. Is it not the ACC's duty to make decisions based on legal points and not on the decision's popularity and lack of popularity?

Thank you for your attention to the matters discussed in this e-mail, and I hope that you will give them careful consideration.

Bernice E. Winandy

Pine, Arizona

End of Complaint

Utilities' Response:

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n/a

End of Response

Investigator's Comments and Disposition:

12/4/2008 - Email to Customer:

Dear Bernice,

Your email sent to the Arizona Corporation Commission ("Commission") in regard to the application filed by the Pine Strawberry Water Improvement District ("Pine Strawberry Water Improvement"), requesting approval to revoke the Certificates of Convenience and Necessity of Pine Water Company and Strawberry Water Company has been received.

An opinion has been placed on file with the Docket Control Center of the Commission on your behalf to be made part of the record. The Commission will take your comments and concerns into consideration before a decision is rendered in the Pine Strawberry Water Improvement application.

Concerns raised by customers assist the Commission within the investigation and review of the application. The Commission's independent analysis of the utility and its requests attempts to balance the interest of both, the utility and its customers. Commission Staff is very sensitive to the burden that the utility's request can place on the consumer.

Commission staff appreciates the time you have taken to express your comments and concerns on the proposed application. If you should have any questions related to this matter, please feel free to call me directly at [REDACTED] or on our in state toll free number at (800) 222-7000.

Thank You,

Guadalupe Ortiz
Public Utilities Consumer Analyst
Arizona Corporation Commission
Utilities Division
CLOSED
End of Comments

Date Completed: 12/4/2008

Opinion No. 2008 - 73655
